

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 19TH JUNE 2007 / 29TH JYAISHTA 1929

WP(C).No. 1242 of 2005(W)

**AGAINST THE ORDER DATED 12/11/2004 IN IA.NO.2007 /2004 IN
OS.274/2004 of MUSNIFF COURT,ADOOR**
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PETITIONER:

**G. RAMACHANDRAN NAIR,
S/O. GOPALAN NAIR, VATTAPPARAMBIL HOUSE,
THONNALLOOR MURI, PANDALAM VILLAGE.**

BY ADV. SRI.BASANT BALAJI

RESPONDENT:

**P.N. JANARDHANAN NAIR, S/O. KRISHNA
PILLAI, GEETHANJALI, THONNALLOOR MURI,
PANDALAM VILLAGE, ADOOR TALUK.**

BY ADV. SRI.S.MUHAMMED HANEEFF

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WPC.NO.1242/2005 W

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF THE WRITTEN STATEMENT FILED BY THE RESPONDENT IN O.S.NO.274 OF 2004 ON THE FILE OF THE MUNSIFF COURT, ADOOR.**
- EXT.P2: COPY OF THE AMENDMENT APPLICATION FILED BY THE PLAINTIFF IN O.S.NO.274 OF 2004 ON THE FILE OF THE MUNSIFF COURT, ADOOR.**
- EXT.P3: COPY OF THE OBJECTION TO EXT.P2 FILED BY THE REPSONDENT.**
- EXT.P4: COPY OF ORDER IN I.A.2007/2004 DTD. 20/07/2004 IN O.S.NO.274 OF 2004 ON THE FILE OF THE MUSIFF COURT, ADOOR.**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) No.1242 of 2005

Dated: 19th June, 2007

JUDGMENT

Ext.P4 order dismissing an application for amendment of plaint is under challenge in this Writ Petition under Article 227 of the Constitution. The learned Munsiff has dismissed the application on the reason that the petitioner is guilty of suppression of material facts. The learned Munsiff has also noticed that the real objective is to escape from the proceedings which were sought to be initiated against the petitioner for having suppressed material facts with the objective of obtaining interim orders of injunction. The court has even found that the petitioner perpetrated fraud on the court. Not that this court views play of fraud on courts lightly. But it appears to me that granting of the amendment application will not cause legal prejudice to the respondent-defendant in the context of his contentions in the suit. But having suppressed material facts from the court the petitioner is not entitled to have the amendment application allowed unless it be on very stringent conditions. Setting aside Ext.P4 I allow the amendment application I.A.No.2007 of 2004 to a limited extent. I.A. will stand allowed to the extent of permitting the petitioner to incorporate the additional pleadings sought to be incorporated along

with the existing pleadings in the plaint. In other words, the pleadings already existing in the plaint will remain and along with them the additional pleadings will also be incorporated. The above order will be subject to the condition that the petitioner pays a sum of Rs.5000/- to the respondent either directly or through his counsel in this court within one month from today and similarly remitss a further amount of Rs.1000/- with the Kerala High Court Legal Services Committee within the above time-limit. If payments as directed above are not made, Ext.P4 will stand confirmed and the Writ Petition will stand dismissed. If the payments are made as directed above, the I.A. will stand allowed to the extent indicated hereinabove in which case the respondent will be permitted to raise additional contentions.

The Writ Petition is allowed as above. No further costs.

srd

PIUS C.KURIAKOSE, JUDGE